

APR 21 2010

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FREDERICK LOUIS WARD,
Plaintiff,

v.

STATE OF NEVADA, *et al.*,
Defendants.

3:09-CV-7-RCJ(VPC)

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge (#36) ("Recommendation") entered on February 26, 2010, in which the Magistrate Judge recommends that this Court enter an order granting defendants' motions to dismiss (#s 15, 23, 25 and 26) and granting plaintiff leave to amend his complaint to include proper defendants. On March 12, 2010, Plaintiff filed an Opposition to Magistrate Judge's Report (#37)¹, and on March 29, 2010, Defendant Sparks Police Department filed its Response to Plaintiff's "Opposition to Magistrate Judge's Report" (#47).

Also before the Court is defendants' Joint Motion to Strike (#46) filed with the Court on March 29, 2010. Plaintiff has failed to respond.

I. ANALYSIS

A. Review of Magistrate Judge's Order

Pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 3-2, a party may file specific written objections to the findings and recommendations of a magistrate judge made pursuant to LR IB 1-4. The district court must make a *de novo* determination of those portions of the magistrate judge's report to which

¹The Court will construe Plaintiff's Opposition to Magistrate Judge's Report (#37) as a non-opposition to the Magistrate Judge's Recommendation (#36). "Otherwise, with respect to the ruling of the Magistrate Judge, Plaintiff has no objection to any substantive ruling that the Honorable Magistrate Judge has made and will be amending the Complaint again to take into account the rulings have been made." See, Docket #37, p. 3.

1 objection is made and may accept, reject, or modify, in whole or in part, the findings or
2 recommendations made by the magistrate judge. LR IB 3-2(b). *De novo* review means the court must
3 consider the matter anew, the same as if it had not been heard before and as if no decision previously
4 had been rendered. Ness v. Commissioner, 954 F.2d 1495, 1497 (9th Cir. 1992). Thus, although the
5 district court need not hold a de novo hearing, the court's obligation is to arrive at its own independent
6 conclusion about those portions of the magistrate judge's findings or recommendation to which
7 objections are made. United States v. Remsing, 874 F.2d 614, 617 (9th Cir. 1989).

8 Defendants' Joint Motion to Strike (#46) is unopposed. Local Rule 7-2(d) provides that "[t]he
9 failure of an opposing party to file points and authorities in response to any motion shall constitute a
10 consent to the granting of the motion."

11 The Court has conducted its review in this case, has fully considered the Plaintiff's motion, and
12 other relevant matters of record pursuant to 28 U.S.C. §636 (b)(1), and concludes that the Magistrate
13 Judge's ruling was neither clearly erroneous nor contrary to law.

14 CONCLUSION

15 IT IS HEREBY ORDERED that the Magistrate Judge's Order (#36) will, therefore, be sustained
16 and Defendants Motions to Dismiss (#s 15, 23, 25 and 26) are GRANTED.

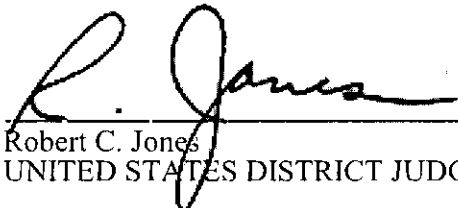
17 IT IS FURTHER ORDERED Defendants Gomez, Singletary, John Doe, Jane Doe #1, and Jane
18 Doe #2, Sparks Police Department and Washoe County Sheriff's Detention Facility are DISMISSED
19 WITH PREJUDICE. The Clerk of the Court shall enter judgment accordingly.

20 IT IS FURTHER ORDERED that Defendants Joint Motion to Strike (#46) is GRANTED. The
21 Clerk of the Court shall STRIKE docket entry (#s 38, 39, 41, 43, 44, and 45) from the Court's Record.

22 IT IS FURTHER ORDERED that Plaintiff Frederick Louis Ward is precluded from personally
23 filing documents in this action so long as he is represented by counsel. Failure to comply will result in
24 the issuance of a Show Cause Order to Plaintiff's counsel of record.

25 IT IS SO ORDERED.

26 DATED: This 21st day of April, 2010.

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28 
Robert C. Jones
UNITED STATES DISTRICT JUDGE